## REMARKS

The Applicant and the undersigned thank Examiner Laforgia for his careful review of this Application. Consideration of the present application is respectfully requested in light of the above amendments to the specification and claims and in view of the following remarks. Claims 1-8 and 10-47 have been rejected and the specification has been objected to. Applicant has amended the specification and Claim 10. Upon entry of the amendments, Claims 1-8 and 10-47 are pending in the subject application with none having been allowed. The independent claims for this application are Claims 1, 7, 10, and 37.

### I. Objection to the Specification Due to Informalities

The Examiner objected to page 4 of the specification because the term "a" was defined to include plural references. The Applicant has amended the paragraph to remove the objectionable matter. The amended specification does not contain any new matter. Accordingly, reconsideration and withdrawal of the objection to the specification are respectfully requested.

### II. Claim Rejections under 35 U.S.C. § 112, first paragraph

The Examiner rejected Claims 10 and 24-47 under 35 U.S.C. § 112, first paragraph, for failing to comply with the enablement requirement. The Examiner asserts that Claims 10 and 24-47 contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains to make or use the invention. *Office Action*, at 2. The Examiner further asserts that the specification contains insufficient support for claim limitations related to "recording the scheduled security audit scan in a database." *Office Action*, at 3.

The rejection of independent Claims 10 and 37 is respectfully traversed. It is respectfully submitted that the specification, as filed, provides sufficient support to enable a person of ordinary skill in the art to record the scheduled security audit scan in a database. In order to satisfy the enablement requirement, a "specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable **any person skilled in the art to which it pertains**, or with which it is most nearly connected, to make and use the same ...." 35 U.S.C. § 112, first paragraph (emphasis added). However, every aspect of a generic claim does not have to be exemplified in

the specification. Genentech, Inc. v. Novo Nordisk A/S, 108 F.3d 1361, 1366 (Fed. Cir. 1997). The specification need not teach what is well known in the art. Hybritech v. Monoclonal Antibodies, Inc., 802, F.2d 1367, 1384 (Fed. Cir. 1986).

It is respectfully submitted that a person of ordinary skill in the art of computing security systems would have the knowledge necessary to accomplish the step of storing information in a database. The specification provides that the "central computer is programmed to perform the following operations: evaluate a database to determine if a security audit scan is currently scheduled to be run for a user...." Specification, page 3:8-10. The specification further sets forth that the "database is accessed to determine when a security audit scan of a computer system is to be executed." Specification, page 3:23-24. Thus, the specification clearly sets forth that security audit scan scheduling information is contained in a database and that it can be accessed from a database.

Furthermore, *Satyavolu* teaches that the "[a]rchitecture 115 comprises at least one scheduled update server 127 adapted to enter into and identify data-gathering job assignments that are **stored in a database**. A database holding such work may be stored in such as a mass repository 129 that is illustrated as connected to server 127." *Satyavolu*, col. 5:59-66. In the Office Action, Examiner contends that this statement in *Satyavolu* discloses recording the schedule in a database. *Office Action* at 9. Thus, even the Examiner realizes that a person of ordinary skill in the art of the application would inherently know how to place something into a database based on a disclosure that provides that the information is stored in the database. Accordingly, reconsideration and withdrawal of the rejection of independent Claims 10 and 37 is respectfully requested.

**III. Claim Rejections under 35 U.S.C. § 103(a)**

The Examiner rejected Claims 1-6, 14, 21, 23, 26, 31, 36, 40, 45, and 47 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,205,552 to Fudge ("*Fudge*") in view of U.S. Patent No. 6,347,374 to Drake, et al ("*Drake*") and further in view of U.S. Patent No. 6,185,689 to Todd, et al ("*Todd*") and U.S. Patent No. 6,517,587 to Satyavolu, et al ("*Satyavolu*"). The Examiner rejected Claims 7, 8, 10-13, 15, 16, 20, 22, 24, 27-30, 35, 37-39, 41, 44, and 46 under 35 U.S.C. § 103(a) as being unpatentable over *Todd* in view of *Satyavolu*. The Examiner rejected Claims 17-19, 25, 32-34, 42, and 43 under 35 U.S.C. § 103(a) as being

unpatentable over *Todd* in view of *Satyavolu* and further in view of *Fudge*. The Applicant respectfully offers the following remarks to traverse these pending rejections.

A. The Invention of Independent Claim 1 is Distinguishable from the *Fudge* in view of *Satyavolu*

The rejection of independent Claim 1 is respectfully traversed. It is respectfully submitted that *Fudge* in view of *Drake*, *Todd*, and *Satyavolu* fails to teach or suggest all of the recitations enumerated in Claim 1. Specifically, the *Fudge/Drake/Todd/Satyavolu* combination does not teach or suggest a scheduler programmed to determine which of the plurality of scanning machines is available to perform the security audit scan by examining a schedule for each scanning machine to identify scanning machines that are conducting another security audit scan or are scheduled to conduct another security audit scan. The *Fudge/Drake/Todd/Satyavolu* combination also fails to teach or suggest a plurality of scanning machines programmed to execute a security audit scan of the remote computer system.

1. The *Fudge/Drake/Todd/Satyavolu* Combination Fails to Teach or Suggest a Scheduler as Claimed

The *Fudge/Drake/Todd/Satyavolu* combination does not teach or suggest a scheduler programmed to determine which of the plurality of scanning machines is available to perform the security audit scan by examining a schedule for each scanning machine to identify scanning machines that are conducting another security audit scan or are scheduled to conduct another security audit scan as set out in independent Claim 1. Scanning machine availability is determined by a scheduler in the central computer examining a schedule for each of the scanning machines. An examination of the schedules allows for the identification of certain scanning machines that are conducting a security audit scan or are scheduled to conduct a security audit scan. The available scanning machines include all of the scanning machines except for the certain scanning machines.

The Examiner admits that *Fudge*, *Drake*, and *Todd* do not teach a scheduler as claimed in independent Claim 1. *Office Action* at 5. However, the Examiner states that it would have been obvious to one of ordinary skill in the art at the time of the invention to "include the central computer as a scheduler ... evaluating a database to determine if there is an event currently scheduled to be run on one of the machines ... and a determining step to determine which machine is available to execute the gathering of information ...." *Office Action* at 5. To support

his statement, the Examiner relies on Figure 1 (blocks 115 and 127); column 5, line 55 to column 6, line 7; and column 6, lines 7-34.

Block 115 of Figure 1 provides a graphical depiction of a centralized computer architecture while block 127 provides a graphical depiction of a "scheduled update server." *See Satyavolu*, col. 5:59-62 and Figure 1. The portions of *Satyavolu* in columns 5 and 6 relied upon by the Examiner teach a scheduled update server that can access a database to retrieve assignments stored therein. *Satyavolu*, col. 5:59-64. Once the assignments are retrieved, they are distributed "in a hierarchical fashion to a plurality of connected distributor servers 135." *Satyavolu*, col. 6:7-9. "Each distributor server 135 contains a work queue (not shown) adapted to hold job assignments until they are requested from another distributor further down the hierarchical line, thus the distribution of tasks for distributors coupled to the [scheduled update server] is by pull technology, providing efficient loading." *Satyavolu*, col. 6:11-16. As is shown, while *Satyavolu's* schedule update server may pull assignments from a database, those assignments are subsequently dumped into the queue for the next distributor in line. The use of queues and "pull technology" by the gatherers in *Satyavolu* eliminate the need for a scheduler to determine which scanning machines are available because when a gatherer in *Satyavolu* becomes available it will just retrieve the next assignment in the queue.

*Satyavolu* also teaches a second scheduling server dedicated to handling "instant update requests from users." *Satyavolu*, col. 6:25-26. Furthermore, *Satyavolu* teaches that the second scheduling server does not handle scheduled requests and the requests are still loaded into queues of "instant update distributors" to be passed to gatherers. *Satyavolu*, col. 6:25-30. Thus, *Satyavolu* does not teach or suggest a scheduler determining which of the plurality of scanning machines is available to perform the security audit scan by examining a schedule for each scanning machine to identify certain ones of the scanning machines that are conducting another security audit scan or are scheduled to conduct another security audit scan, as recited in Claim 1. Accordingly, reconsideration and withdrawal of the rejection of Claim 1 is respectfully requested.

2. The *Fudge/Drake/Todd/Satyavolu* Combination Fails to Teach or Suggest a Plurality of Scanning Machines Programmed to Execute a Security Audit Scan of the Remote Computer System

The *Fudge/Drake/Todd/Satyavolu* combination does not teach or suggest a plurality of scanning machines programmed to execute a security audit scan of the remote computer system,

as set out in independent Claim 1. Each scanning machine of Claim 1 is capable of conducting multiple types of security assessments. Each scanning machine is also in communication with the global computer network.

The Examiner admits that *Fudge* does not teach a plurality of scanning machines. *Office Action* at 4. However, the Examiner states that it would have been obvious to one of ordinary skill in the art at the time of the invention to "include a plurality of scanning machines." *Office Action* at 4 (citing *Drake*, col. 1:4-10) . The Examiner also states that "it requires only routine skill to duplicate a part for it to have a multiple effect." *Office Action* at 4 (citing MPEP §2144.04 and *In re Harza*).

The Examiner directs Applicant's attention to *Drake*, col. 1:4-10 and its use of multiple audit sources in support of his contention that *Drake* teaches the multiple scanning machines of Claim 1. *Drake* teaches a method for detecting events based on audit data received from one or more audit sources. *Drake*, col. 1:5-12. The multiple audit sources collect "raw audit data made up of raw audit data records at an audit source." *Drake*, col. 3:46-48. In addition, the audit source may be "security, system, and/or application logs maintained by an operating system. These logs contain raw information on file access, login attempts, application functions, and the like." *Drake*, col. 5:39-42. The raw data from the audit source is then passed to a parser, where it is processed. *Drake*, col. 8:49-57. The parser converts the audit data from raw form into virtual records. *Drake*, col. 7:25-26. The parsed information can then be passed to a detector "that detects audit events in response to the Virtual Records generated by the parser ...." *Drake*, col. 3:55-58. Thus, it is the detector, and not the audit source, that conducts a detection for events. The audit source of *Drake* only collects raw data and does not conduct security audit scans as required by the scanning machines of Claim 1. Further, Figure 1 of *Drake* depicts multiple parsers 20 and collectors 26 but only depicts a single detector 32. The basis for a single detector in *Drake* is further supported in column 9, which states "the file transfer to the downstream process location, where the detector is located, includes Virtual Records generated by the parser 20." *Drake*, col. 9:6-8. As can be seen, the statement implies that there is only one detector. Thus, *Drake* does not teach or suggest a plurality of scanning machines programmed to execute a security audit scan of the remote computer system, as set out in independent Claim 1.

Further, the system of Claim 1, having multiple scanning machines, is not a mere duplication of a single part. The use of multiple scanning machines allows for the integration of a scheduler that can review the schedule of each scanning machine and select a scanning machine for an audit based on a determination of which machines are not currently conducting a scan or are not currently scheduled to conduct a security audit scan. Accordingly, reconsideration and withdrawal of the rejection of Claim 1 is respectfully requested.

B. The Inventions of Independent Claims 7 and 37 and Claim 10, as Amended, are Distinguishable from the *Todd* in view of *Satyavolu*

The rejection of independent Claims 7, 10, and 37 is respectfully traversed. It is respectfully submitted that *Todd* in view of *Satyavolu* fails to teach or suggest all of the recitations enumerated in Claims 7, 37, and amended Claim 10. Specifically, the *Todd/Satyavolu* combination does not teach or suggest determining which of the plurality of scanning machines is available to perform the security audit scan by examining a schedule for each scanning machine to identify scanning machines that are conducting another security audit scan or are scheduled to conduct another security audit scan.

1. The *Todd/Satyavolu* Combination Fails to Teach or Suggest Determining the Availability of Scanning Machines to Conduct a Security Audit Scan

The *Todd/Satyavolu* combination does not teach or suggest determining which of a plurality of scanning machines is available to perform the security audit scan by examining a schedule for each scanning machine to identify scanning machines that are conducting another security audit scan or are scheduled to conduct another security audit scan as set out in independent Claims 7, 37, and amended Claim 10. Determining the availability of a scanning machine to conduct a security audit scan is accomplished by examining a schedule for each of the scanning machines. An examination of the schedules allows for the identification of certain scanning machines that are conducting a security audit scan or are scheduled to conduct a security audit scan.

The Examiner admits that *Todd* does not teach determining which of the plurality of scanning machines is available to perform the security audit scan by examining a schedule for each scanning machine to identify scanning machines that are conducting another security audit scan or are scheduled to conduct another security audit scan. *Office Action* at 7-8. However, the Examiner states that it would have been obvious to one of ordinary skill in the art at the time of

the invention to "include a determining step to determine which machine is available to execute the gathering of information ...." *Office Action* at 7-8. To support his contention, the Examiner relies on Figure 1 (block 127) and column 6, lines 7-34.

As discussed herein above, block 127 provides a graphical depiction of a "scheduled update server." *See Satyavolu*, col. 5:59-62 and Figure 1. The portions of *Satyavolu* in column 6 relied on by the Examiner teach the distribution of assignments "in a hierarchical fashion to a plurality of connected distributor servers 135." *Satyavolu*, col. 6:7-9. "Each distributor server 135 contains a work queue (not shown) adapted to hold job assignments until they are requested from another distributor further down the hierarchical line, thus the distribution of tasks for distributors coupled to the [scheduled update server] is by pull technology, providing efficient loading." *Satyavolu*, col. 6:11-16. As is clearly stated in *Satyavolu*, scheduled work assignments are distributed to the next distributor in line by passing the assignment into the queue of that distributor. The use of queues and "pull technology" by the gatherers in *Satyavolu* eliminate the need to determine which scanning machines are available because when a gatherer in *Satyavolu* becomes available it will just retrieve the next assignment in the queue, there is no evaluation of the gatherers as a whole to determine their current schedules.

*Satyavolu* also teaches a second scheduling server dedicated to handling "instant update requests from users." *Satyavolu*, col. 6:25-26. Instant update requests are sent to the server by a user, via the Internet, where these requests are passed through a second set of distributors and gatherers. *Satyavolu*, col. 6:25-30. While *Satyavolu* states that the second set of distributors does not operate by pull technology, *Satyavolu* does not teach how these requests are passed to the gatherers other than to say that the requests are still passed to the queue of the second set of distributors. *Satyavolu*, col. 6:25-34. Thus, *Satyavolu* does not teach or suggest determining which of the plurality of scanning machines is available to perform the security audit scan by examining a schedule for each scanning machine to identify certain ones of the scanning machines that are conducting another security audit scan or are scheduled to conduct another security audit scan, as recited in Claims 7, 37 and amended Claim 10. Accordingly, reconsideration and withdrawal of the rejection of Claims 7, 37, and amended Claim 10 is respectfully requested.

C. The Invention of Dependent Claims 3, 14, and 40 is Distinguishable from the *Fudge/Drake/Todd/Satyavolu* Combination

The rejection of dependent Claims 3, 14, and 40 is respectfully traversed. It is respectfully submitted that the *Fudge/Drake/Todd/Satyavolu* combination fails to teach or suggest the recitations enumerated in Claims 3, 14, and 40. Specifically, the *Fudge/Drake/Todd/Satyavolu* combination does not teach or suggest issuing a notification that the security audit scan is commencing or being conducted.

The Examiner contends that *Todd* teaches a central computer programmed to issue a notification the security audit scan is commencing. *Office Action* at 6. In support of his contention, Examiner directs Applicant's attention to Figure 3, block 42; Figure 7, block 42; and column 6, lines 40-49 of *Todd*. Figure 3, block 42 states that a "customer uses email to start assessment." Further, Figure 7, block 42 states that "buyer uses email to view old assessment or start a new assessment." Neither of these figures teaches or suggests issuing a notification to a user interface that the security audit scan **is commencing**. At best, these figures describe a way for the buyer/user to begin the scan.

Column 6, lines 40-49 of *Todd* describes a method for reporting the results of a scan of a system to a buyer. An email is sent by a seller to a buyer containing a link to a hypertext page. *Todd*, col. 6:40-43. *Todd* goes on to teach that providing the link by email improves the security of results by limiting access to the results to a buyer with the link. *Todd*, col. 6:43-49. The email sent by the seller to the buyer can also be used by the buyer to initiate the test. *Todd*, Figure 3 [block 42 and above]; Figure 7 [block 42 and above]; col. 6:50-51. Therefore, the email being sent by the seller to the buyer, in *Todd*, can not be a notification that the scan is commencing because the scan can not commence unless and until the buyer actually responds to the email in a particular way. It is possible that the buyer may never respond to the email, in which case the scan will never have commenced. Accordingly, reconsideration and withdrawal of the rejection of dependent Claims 3, 14, and 40 is respectfully requested.

## IV. The Inventions of Dependent Claims 2-6, 8, 9, 11-36 and 38-47 are Distinguishable from the Cited Art

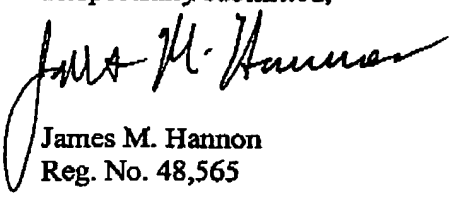
The Applicant respectfully submits that the above-identified dependent claims are allowable because the independent claims from which they depend, Claims 1, 7, 10, and 37 are

patentable over the cited references. The Applicant also respectfully traverses the Examiner's assertions about these claims and submits that the recitations of these dependent claims are of patentable significance. The Applicant respectfully requests that the Examiner reconsider and withdraw the pending rejection of Claims 2-6, 8, 9, 11-36, and 38-47.

## CONCLUSION

The foregoing is submitted as a full and complete response to the Official Action mailed on January 7, 2005. The Applicant has amended the claims and has submitted remarks to traverse the objections and rejections of pending Claims 1-8 and 10-47. The Applicant has shown above that Claims 1-8 and 10-47 are allowable over the art cited by the Examiner and respectfully request that the Examiner withdraw all pending rejections and/or objections to Claims 1-8 and 10-47. If the Examiner believes that there are any issues that can be resolved by a telephone conference, or that there are any informalities that can be corrected by an Examiner's amendment, a telephone call to the undersigned at (404) 572-4691 to discuss same is respectfully requested.

Respectfully submitted,



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